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NO. 7090 P. 10  
818 366 5556 P.01

# ORIGINAL

Application No. 10/047,817

**Fourth Declaration Under 37 C.F.R. § 1.132  
of Richard A. Brown**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent Application No. 10/047,817

AUG 09 2006

Applicant: Brown

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P.O. Box 1450  
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**FOURTH DECLARATION UNDER 37 C.F.R. § 1.132 OF RICHARD A. BROWN**

Sijt

I, Richard A. Brown, hereby declare the following:

1. I am currently the Director of Research and Development of Cosmetic Laboratories of America and have held this title for ten years. I have been employed with Cosmetic Laboratories of America for the past twenty years. I have over 35 years of experience in the area of personal care products, with extensive experience in research and development of skin care and hair care products, in particular.

2. I received a Bachelor's Degree in Chemistry in 1970 and a Master's Degree in Business Administration in 1977, both from the University of California at Los Angeles.

3. I am the named inventor in the present application. In some embodiments, the present invention relates to a pigmented cosmetic composition comprising a water-in-oil emulsion, in which the emulsion comprises (a) from about 30% to about 40% by weight of an oil phase; (b) from about 30% to about 50% by weight of an aqueous phase; (c) from about 5%

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of Richard A. Brown

to about 15% by weight of a pigment; (d) from about 3% to about 6% by weight of a cetyl dimethicone copolyol emulsifier; and (e) a separation inhibitor comprising a silicone elastomer, wherein the silicone elastomer comprises a dimethicone cross-polymer, and wherein said silicone elastomer is present in an amount of from about 0.1% to about 7% by weight of said composition, wherein the composition is stable for at least three months at about 50 °C. In another embodiment, the present invention relates to a particulate sunscreen composition comprising a water-in-oil emulsion, said emulsion comprising (a) from about 30% to about 40% by weight of an oil phase; (b) from about 30% to about 50% by weight of an aqueous phase; (c) from about 1% to about 35% by weight of a particulate sun screening agent; (d) from about 3% to about 6% by weight of a cetyl dimethicone copolyol emulsifier; and (e) a separation inhibitor comprising a silicone elastomer, wherein the silicone elastomer comprises a dimethicone cross-polymer, and wherein said silicone elastomer is present in an amount of from about 0.1% to about 7% by weight of said composition, wherein the composition is stable for at least three months at about 50 °C.

4. Inventive experiments summarized in First, Second, and Third Declarations are compiled in Attachment A. The experiments involved preparing and evaluating the stability of 8 water-in-oil emulsions (Example 1 in the instant application and Samples A-G). Example 1 of the instant application is an inventive example comprising 4 wt% cetyl dimethicone copolyol. Samples A and B are comparative examples and contain 1 and 8 wt%, respectively, of cetyl dimethicone copolyol. Samples C, D, E, F, and G are inventive and contain 3, 6, 4, 4, and 6 wt%, respectively, of cetyl dimethicone copolyol and illustrate the breadth of the invention. The amounts of oil, water, pigment, elastomer, and other components listed in Example 1 of the instant application vary among Samples C-G. See Attachment A.

5. All of the samples were prepared and observed for stability at 50 °C. Each of Example 1 of the instant application and Samples C, D, E, F, and G remained stable at 50 °C for at least 3 months after preparation. In contrast, comparative Sample B was unstable after only a few days after its preparation. The water and oil phases separated from one another completely. Comparative Sample A initially was stable, but after about one and a half months, the sample underwent a "creaming" process, in which the composition separated into thick creamy phase on

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of Richard A. Brown

top and a thinner layer on the bottom. As such, comparative Sample A was not considered a stable emulsion.

6. The results demonstrate that only a composition of the present invention (particularly, a composition comprising about 3-6 wt% cetyl dimethicone copolyol) was stable for at least three months at 50 °C. The increase in stability exhibited by a composition of the present invention is surprisingly greater than compositions comprising an amount less than or greater than about 3-6 wt% of cetyl dimethicone copolyol.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

August 7, 2006

Date

Richard Brown

Richard A. Brown

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818 366 5555 P.04

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of Richard A. Brown  
ATTACHMENT A

	Examine 1	A	B	C	D	E	F	G
Ingredients	Inventive	Comparative	Comparative	Inventive	Inventive	Inventive	Inventive	Inventive
Table I	4%	1%	8%	3%	4%	4%	6%	6%
11071904A	TT071904B	TT022505A	RA051128A	RA051128B	RA051128B	RA051128C		
45.9870	45.9865	45.9865	45.9870	37.9000	42.5330	45.9865	27.9000	
10.0000	10.0000	10.0000	10.0000	31.0000	15.0000	10.0000	15.0000	
7.0000	7.0000	7.0000	7.0000	10.1000	7.0000	7.0000	6.4000	
5.0000	5.0000	5.0000	5.0000	5.0000	5.0000	5.0000	5.0000	
5.0000	5.0000	5.0000	5.0000		5.0000	5.0000	5.0000	
4.0000	1.0000	8.0000	3.0000	4.0000	4.0000	6.0000	6.0000	
2.6000	2.5000	2.5000	2.5000	2.5000	2.5000	2.5000	1.5000	
2.5000	2.5000	2.5000	2.5000	2.5000	2.5000	2.5000	6.0000	
2.0000	2.0000	2.0000	2.0000	1.0000	1.0250	2.0000	2.0000	
2.0000	2.0000	2.0000	2.0000		2.0000	2.0000	2.0000	
2.0000	2.0000	2.0000	2.0000		2.0000	2.0000	2.0000	
1.8000	1.8000	1.6000	1.6000	1.6000	1.6000	1.6000	4.7000	
1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	0.5000	
0.6000	0.6000	0.6000	0.5000	0.5000	0.5000	0.5000	0.5000	
0.2000	0.2000	0.2000	0.2000	0.2000	0.2000	0.2000	0.2000	
0.1000	0.1000	0.1000	0.1000	0.1000	0.1000	0.1000	0.1000	
0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	
0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	
0.0010	0.0010	0.0010	0.0010	0.0010	0.0010	0.0010	0.0010	
0.0010	0.0010	0.0010	0.0010	0.0010	0.0010	0.0010	0.0010	
0.0100	0.0100	0.0100	0.0100	0.0100	0.0100	0.0100	0.0100	
7.0000	7.5980	7.5980	7.6980	7.0381	12.5278	7.6980	12.5700	
1.0000	0.5040	0.5040	0.5040	0.9976	1.7757	0.5040	1.7800	
0.2000	0.1618	0.1618	0.1618	0.1687	0.3903	0.1618	0.3000	
0.2000	0.0367	0.0367	0.0367	0.1957	0.3483	0.0367	0.3500	
100.0000	97.0100	104.0100	99.0005	100.0001	102.0100	100.0000	102.0100	

Emulsifier 3-6%	4	1	8	3	4	4	6	6
Oil Phase 30-40%	34	35	32	34	40	30	33	40
Aqueous Phase 30-50%	50	51	48	50	41	46	49	30
Pigment Phase 5-15%	8	9	8	8	8	15	6	15
Silicone Elastomer 0.1-7%	1	1	1	1	4	2	1	2
3 Months Stability @ 50°C	PASS	FAIL	PASS	PASS	PASS	PASS	PASS	PASS